

Frequently Asked Questions for Pro Se Filers

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Questions Relating to Filing a Bankruptcy Case

1. What are the statutes and rules that apply to bankruptcy filings?

Title 11, which is the United States Bankruptcy Code (the “Bankruptcy Code”), is the uniform Federal law that governs all bankruptcy cases. The procedural aspects of the bankruptcy process are governed by the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). There is a set of official bankruptcy forms contained in the Bankruptcy Rules for use in bankruptcy cases. Forms are available on the Internet at www.uscourts.gov/bankform. The United States Bankruptcy Code is available for viewing at the Court’s Web site. The Bankruptcy Code and the Court’s Local Rules are available at the Court’s Web site.

2. Do I need an attorney to file bankruptcy?

While it is possible to file a Chapter 7 bankruptcy case without representation, it may be difficult to successfully do so. It is recommended that a person considering bankruptcy consult with an attorney prior to filing a case. For information on lawyer referral programs or free legal clinics, contact the local bar association. A Corporation, Limited Partnership, or unincorporated associations commencing a case under Chapter 11 of the bankruptcy code must be represented by an attorney.

3. What is a joint debtor?

A joint debtor is a spouse who files for bankruptcy relief. If both spouses file the bankruptcy petition, both spouses are considered joint debtors.

4. How many copies do I need to file with the Court?

Two copies are required: One original saved as a PDF in electronic format (that is, diskette, CD, or flash drive) and one paper copy to be returned to the filer.

5. What is the difference between Chapters?

Chapter 7

Individuals, corporations, and partnerships are eligible for a Chapter 7. A trustee is appointed to oversee the estate. State law determines what portion of the property a debtor may keep by claiming exemptions. The trustee will gather and sell the rest of the debtor(s)' assets and distribute the proceeds to creditors. If all the debtor(s)' assets are "exempt" or if minimal assets are found, the case will be a "no-asset case", with no distribution to creditors.

Chapter 11

Although individuals may file a petition under Chapter 11, this Chapter is primarily designed for the reorganization of distressed businesses. The Court's largest and most complex cases are usually Chapter 11 cases. When a Chapter 11 petition is filed, the debtor becomes a "debtor-in-possession" with rights and duties of a trustee.

No trustee will be appointed in the case unless an interested party asks the Court to do so and shows sufficient "cause" (e.g., fraud or mismanagement on the part of the debtor.) A committee of unsecured creditors is usually appointed in Chapter 11 cases to monitor the debtor's progress. If the debtor qualifies as a small business according to 11 U.S.C. § 101 (51D), there are additional deadlines and requirements. The Chapter 11 debtor's ultimate goal is to file a plan of reorganization that is acceptable to creditors and the Court.

Chapter 12

This Chapter was enacted into law in 1986 to provide relief for family farmers with a regular income. Chapter 12 is patterned very closely after a Chapter 13, but has attributes of Chapter 11 as well. Individual, corporate, or partnership farming operations are eligible to file where aggregate debts (secured and unsecured) do not exceed a certain amount. A plan must be filed within 90 days, unless the Court extends that time. The trustee, though appointed upon filing, does not remove the family farmer debtor-in-possession. After confirmation, payments are made to the trustee to complete the plan.

Chapter 13

This Chapter provides a way for individuals with a regular source of income to pay off their debts over a period of time and under supervision of the Court and a trustee. Corporations and partnerships may not file under Chapter 13. Individuals may file only if both their secured debts and unsecured debts do not exceed specific amounts. The plan is filed with the petition or immediately thereafter. Payments are made to a Chapter 13 Trustee who makes distributions to creditors according to the provisions of a confirmed plan. The debts may be paid back in whole or in part, depending on what the debtor is able to do.

6. Where can I obtain petition forms?

Petition forms are available at www.casb.uscourts.gov, at the U.S. Bankruptcy Court, 325 West F Street, San Diego, CA, and at most office-supply stores.

7. What do I need to file when filing a bankruptcy case with the Court?

Checklists for each Chapter are available on the Court's Web site at www.casb.uscourts.gov or at the Bankruptcy Court Clerk's office. Also, more information is available for what to expect in a Chapter 7 and what to expect in a Chapter 13 at the Clerk's Office and on our Web site.

8. What is a mailing matrix?

The mailing matrix is a list of the names and addresses of creditors and other parties in interest provided to the Court at the time of filing. The Court's automated noticing system has special requirements for preparing this list. Instructions for formatting a mailing matrix can be found on Creditor Matrix Instructions (Form CSD 1007), which can be obtained from our Web site at www.casb.uscourts.gov or at the Clerk's Office.

9. Is there a fee to file bankruptcy?

The bankruptcy filing fees are as follows:

- Chapter 7 \$299.00
- Chapter 13 \$274.00
- Chapter 11 \$1039.00
- Chapter 12 \$239.00
- Chapter 9 \$1029.00

To see a complete list of other filing fees during a bankruptcy case, please see the Fee Schedule page on the Court's Web site.

10. What are the qualifications for paying the filing fee in installments?

Normally, the fees must be paid to the Clerk of Court upon filing. With the Court's permission, however, you may pay the fees in installments. The number of installments is limited to two. You cannot pay **anyone** to prepare your petition, schedules, or statements when filing an installment plan. You must pay half the filing fee at the time of filing. The second half is due within 30 days. If the fee is not paid, your case will be dismissed without further notice. The form *Application to Pay Filing Fees in Installments* (Form CSD 1006) is available in the bankruptcy packet at www.casb.uscourts.gov or at the Clerk's Office.

11. What if I can't pay the filing fee?

If your income is less than 150% of the poverty level (as defined by the Department of Health and Human Services), and you are unable to pay the Chapter 7 fees even in installments, the Court may waive the requirement that the fees be paid [28 U.S.C. § 1930(f).] The *Application for Waiver of the Chapter 7 Filing Fee* (Form CSD 1020) and *Order on Debtor's Application for Waiver of the Ch 7 Filing Fee* (Form CSD 1021) is available in the bankruptcy packet, at www.casb.uscourts.gov or at the Clerk's Office.

12. What forms of payment does the Court accept?

Payments must be made by cashiers check, money order, or cash for the exact amount only. We cannot accept personal checks, debit cards, or credit cards from debtors.

13. Filing due dates?

Filing due dates for a Chapter 7 are available in the "[What to Expect in a Chapter 7 Case](#)" section of this packet. Filing due dates for a Chapter 13, are available in the "[What to Expect in a Chapter 13 Case](#)" section of this guide.

14. What if I need help filling out the forms?

It is recommended that a person considering bankruptcy consult with an attorney prior to filing a case. The clerks at the Bankruptcy Court cannot give legal advice or assist with filling out forms. Contact the San Diego County Bar Association at www.sdcba.org or toll free at 1 (800) 464-1529.

15. Where do I file my bankruptcy petition?

The petition and any subsequent forms may be filed at the U. S. Bankruptcy Court located at 325 West F Street, San Diego, CA 92101, between the hours of 9:00 a.m. and 4:00

p.m. Monday through Friday. In addition, you may mail your petition (along with the appropriate filing fee) to the Court. It is strongly recommended that you include a self-addressed, stamped envelope for the return of your filed copies. You should also include a phone number.

Questions Relating to the Meeting of Creditors

1. What is the Meeting of Creditors?

11 U.S.C. § 341(a) of the Bankruptcy Code requires every debtor to personally attend a meeting of creditors and to submit to an examination under oath. The trustee assigned to the case presides at the meeting. Creditors may question the debtor under oath, and conduct such other business as may be appropriate. Creditors are not required to attend the meeting. Debtors are required to bring specific documents to the 341 meeting. In addition, the trustee may direct the debtors to produce documents or turn over property. The debtor must promptly reply to the trustee's requests.

2. How do I find out who the trustee is in a case?

The trustee's name and address is printed on the Notice of Meeting of Creditors. You can also obtain the trustee's name from the Court's online case information system, PACER, as well as by calling the automated public information systems, Voice Case Information System or VCIS (619) 557-6521, or by calling the Court and speaking to the operator (619) 557-5620.

3. What if I can not attend my scheduled Meeting of Creditors?

A debtor may request permission from the trustee to reschedule their Meeting of Creditors. Typically this type of request does not require any action by the Court. Contact information for a debtor's trustee can be found on the Notice of Meeting of Creditors.

4. What if I missed the Meeting of Creditors?

If the Trustee has not been contacted, the trustee may dismiss the case for failure to attend within 48 hours of the Meeting of Creditors.

5. Are co-debtors required to be at the Meeting of Creditors?

If they are listed on the petition, co-debtors must attend as they are a debtor.

6. How do I obtain a transcript of the Meeting of Creditors?

Transcripts of the Meeting of Creditors can be obtained from the United States Trustee's office at (619) 557-5013.

7. What if I don't speak English?

If you need a translator for any language for the Meeting of Creditors, call the U.S. Trustee's office at (619) 557-5013.

Questions Relating to Discharge

1. What is a discharge in bankruptcy?

A discharge is a release of a debtor from personal liability for certain specified types of debts. Once a discharge in bankruptcy is granted, a debtor is no longer required by law to pay any debts that were discharged in the bankruptcy. A discharge is a permanent order directing the creditors of the debtor to refrain from taking any collection action on discharged debts. This includes legal action and communications with the debtor, such as telephone calls, letters, and personal contacts.

2. When is the discharge issued?

In a Chapter 7 (liquidation) case, the provisions discussing discharge are found at 11 U.S.C. § 727. The Court usually grants and mails a copy of the discharge to the debtor, creditors, and all interested parties promptly after the expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case for substantial abuse (60 days following the first date set for the "Meeting of Creditors". Typically, this occurs about four months after the date the debtor files the petition with the Clerk of the bankruptcy Court.

In a Chapter 13 case (adjustment of debts of an individual with regular income), the provisions discussing discharge are found at 11 U.S.C. § 1328. The Court will normally grant the discharge promptly after the debtor completes all payments under the plan, which can be made over a three- to five-year period. *Please note that under recent changes to the Bankruptcy code, receipt of the Chapter 13 discharge may not be automatic, and may require the Court to hold a hearing under 11 U.S.C. § 1328(h).*

3. How does a debtor get a discharge?

Unless there is litigation involving objections to the discharge, the debtor will usually automatically receive a discharge. The Federal Rules of Bankruptcy Procedure provide for the Clerk of the Bankruptcy Court to mail a copy of the order of discharge to all

creditors, the U.S. trustee, the trustee in the case, and the trustee's attorney, if any. The debtor and the debtor's attorney also receive copies of the discharge order. The notice, which is simply a copy of the final order of discharge, is not specific as to those debts determined by the Court to be non-dischargeable (that is, not covered by the discharge).

The notice generally informs creditors that the debts owed to them have been discharged and that they should not attempt any further collection. In the notice they are cautioned that continuing collection efforts could subject them to punishment for contempt. Any inadvertent failure on the part of the Clerk to send the debtor or any creditor a copy of the discharge order promptly within the time required by the rules does not affect the validity of the order granting the discharge.

4. Are all debts discharged?

Not all debts are discharged. The debts that are discharged vary in each Chapter of the Bankruptcy Code. Certain categories of debts are excepted from the discharge granted to individual debtors. See 11 U.S.C. 523(a). For those debts which are excepted from discharge, the debtor must still pay those debts after the discharge is granted. For example, alimony, maintenance, and child support payments cannot be discharged. See 11 U.S.C. § 523(a)(5).

The most common types of debts that are nondischargeable are certain types of tax claims. Nondischargeable debts could include debts for spousal or child support or alimony; debts incurred as a result of willful and malicious injuries to a person or property; debts to governmental units for fines or penalties; debts for most government funded or guaranteed education loans or benefit overpayments; debts for personal injury caused by the debtor's operation of a motor vehicle while intoxicated; and debts for certain condominium or cooperative-housing fees.

In order for a creditor to pursue collection of these types of debts, the creditor must ask the Court to determine that these debts be excepted from the discharge by filing an adversary proceeding (a lawsuit within the bankruptcy). The creditor must commence such an action in order for these debts not to be included in the discharge.

5. Can a creditor object to a debtor being granted a discharge?

In a Chapter 7 case, a creditor, the case trustee, or the United States Trustee, may object to the issuance of a discharge. Shortly after the filing of a case, creditors receive a Notice of Meeting of Creditors that sets out important information including the last date to object to the debtor being granted a discharge or dischargeability of a debt. In order to object to the debtor receiving a discharge, the creditor, trustee, or United States Trustee must file an adversary proceeding (which is a lawsuit in the bankruptcy case). Grounds for denying a Chapter 7 discharge are laid out in detail in Section 727 of the Bankruptcy Code.

In Chapter 13 cases, the debtor is normally entitled to a discharge upon completion of all payments under the plan.

6. Can a discharge be revoked or vacated?

A discharge can be revoked by the Court in certain circumstances upon request by the case trustee, a creditor, or the United States Trustee. The request must be based on allegations such as the debtor obtained the discharge fraudulently, the debtor failed to disclose that he or she acquired property or became entitled to acquire property that would be considered property of the bankruptcy estate; or that the debtor committed one of several acts of impropriety described in 11 U.S.C. § 727(a)(6) of the Bankruptcy Code.

Typically, a request to revoke the debtor's discharge must be filed within one year after the granting of the discharge or in some instances, before the date the case is closed in the Court. The Court determines whether the allegations made about the debtor are true and will make the decision whether to revoke the discharge after hearing on notice to the debtor. In a Chapter 13 case, if confirmation of a plan or the discharge is obtained through fraud, the Court can revoke the order of confirmation of the plan or the discharge.

7. What if a creditor attempts to collect a debt after it has been discharged?

If a creditor attempts to collect a discharged debt from a debtor, the debtor may file a motion with the Court reporting the action and asking the Court to address the matter. The discharge is a permanent statutory injunction prohibiting creditors from taking any action, including the filing of a lawsuit, to collect a discharged debt. If a creditor attempts to collect on a discharged debt, the creditor may be sanctioned by the Court. Possible sanctions include a finding of civil contempt, which is punishable by a fine against the creditor.

8. How often can a debtor receive a discharge?

Typically for a Chapter 7, a debtor must wait eight years between filing dates to be eligible for another discharge. Chapter 7 debtors should refer to 11 U.S.C. § 727(a)(9). Chapter 13 debtors should refer to 11 U.S.C. § 1328(f)(1) and 1328(f)(2).

9. How can the debtor obtain another copy of the Discharge?

A copy of the discharge can be obtained by contacting the Clerk's Office. The clerk will charge a fee for making a copy of the discharge. If the case has been closed and archived, a retrieval fee will be charged and obtaining the copy will take longer.

The discharge order may be available electronically. The PACER system provides the public with electronic access to selected case information through a personal computer

located in the Clerk's Office. The debtor can also access PACER. Users must set up an account to access PACER and they must pay a per-page fee to download and copy electronically filed documents. Users will not be charged a per-page fee until they meet a \$10.00 threshold.

Miscellaneous Questions

1. How do I get a hearing date?

To schedule a hearing, contact one of the following courtroom deputies:

- Gregg Robinson at (619) 557-6019 for Judge Mann - Dept. 1
- Karen Fearce at (619) 557-6594 for Judge Adler - Dept. 2
- Jennifer Purkey at (619) 557-6018 for Judge Taylor - Dept. 3
- Marilyn Wilkinson at (619) 557-5157 for Judge Bowie - Dept. 4
- Jillmarie McGrew at (619) 557-6019 for Judge Meyers - Dept. 5

You can view Court calendars on the Court's Web site: www.casb.uscourts.gov.

2. How do I get certified copies of documents?

Certified copies of documents are available at the Clerk's Office. The cost is \$9.00 per certification plus the copy fee. To obtain copies by mail, send your request to U.S. Bankruptcy Court, 325 West F Street, San Diego, CA 92101. Specify the case name, case number, the name of the document to be certified, and the document number if available. Include a self addressed, stamped envelope for return of your documents. There is an additional file search fee of \$26.00 for mail requests. Make the cashiers check or money order payable to Clerk, U.S. Bankruptcy Court. The Clerk's Office does not accept personal checks.

3. How do I obtain case information?

Bankruptcy cases are public records and are available for viewing at the Bankruptcy Court Clerk's Office. In addition, you can obtain case information by calling the Clerk's office at (619) 557-5620, obtaining a PACER login at www.pacer.gov or you can use the Voice Case Information System (VCIS) at (619) 557-6521.

4. How long does a bankruptcy remain on my credit report?

The fact that an individual filed a bankruptcy can remain on the credit report no longer than 10 years under the provisions of the Fair Credit Reporting Act.

5. What do I do if someone in bankruptcy owes me money?

In a Chapter 7 case, do not file a claim unless requested to do so by the Court. If assets are identified you will receive a claim form and notice setting a date to file the claim. In a Chapter 13 case, a proof of claim must be filed within 90 days of the Meeting of Creditors. In a Chapter 11 case, unless otherwise ordered by the Court, the bar date for filing proofs of claim shall be 180 days after the date of the order for relief. The original claim and any supporting documents are filed with the Clerk's Office.

6. What are the Federal holidays?

The Clerk's Office is open to the public from 9:00 a.m. to 4:00 p.m., Monday through Friday, except for the following Federal holidays (except where otherwise noted):

- New Years Day
- Martin Luther King, Jr. Day
- Presidents Day
- Cesar Chavez Day (State holiday)
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day and the day after Thanksgiving (Court holiday)
- Christmas Day

The specific dates of these holidays are posted on the Court's Web Site.

7. How do I obtain copies of a document?

If the case has not been shipped to the Federal Records Center, copies of the case may be obtained in person or by phone at the Clerk's Office for \$0.10 per page.

Copies may be obtained via U.S. Mail. Send a letter along with a self-addressed, stamped envelope to the Clerk's Office and provide the case name, the case number, and the documents required.

8. How do I obtain copies of a closed case?

Most cases filed after 1997 are maintained electronically and are available from the Court. Cases filed prior to 1997 are shipped to the Federal Records Center archives located in Perris, CA. To view a case at the Federal Records Center, you will need the

accession, location, and box number. This information is available by calling the Clerk's Office at (619) 557-5620. The Federal Records Center accepts copy requests sent by mail or by fax for bankruptcy cases. The copy request form is available at the Clerk's Office or on the Court's Web site at www.casb.uscourts.gov.

9. Whom do I notify about a possible fraudulent filing?

The Office of the United States Trustee reviews complaints for possible fraudulent filings and if appropriate, they notifies the U.S. Attorney for further investigation. For more information, contact the U.S. Trustee's office at (619) 557-5013.

10. Where do I find the Post-Judgment Interest Rate?

For post-judgment interest rate information, visit the Post Judgement Interest Rate page available at www.casb.uscourts.gov.

11. Where can I get a Proof of Claim Form?

Proof of Claim forms (Form B 10) are available on our Web site, www.casb.uscourts.gov or at the Clerk's Office.

12. How can I notify the Court if an address changes?

Any party in a case needing to change their address can file a Notice of Change of Address form (Form CSD 1547), which is available on the Court's Web site, www.casb.uscourts.gov.

13. How do I apply for unclaimed funds?

To apply for any unclaimed funds, you must contact the Court's Financial Department at (619) 557-6777.

14. How can I get a transcript of a hearing?

Transcripts of the Meeting of Creditors can be obtained from the U.S.Trustee's office at (619) 557-5013.

For information on how to order a transcript of a Court hearing, please contact the lead court reporter at (858)775-0283.

15. In an adversary proceeding, what happens after the answer is filed and the response is received?

The Court will issue an order specifying important dates and deadlines, including the date for the initial pre-trial conference. You must appear at the initial pre-trial conference.

16. What is Pro Hac Vice?

Pro Hac Vice is an application for an out-of-state attorney to practice in our Court. The application must be filed with the Bankruptcy Court, and the fee must be made payable to the U.S. District Court. Contact the U.S. District Court for more information:

<http://www.casd.uscourts.gov>.

17. How long after the case has been closed can I reopen the case?

You can motion the Court to reopen a case at any time. To reopen a case you first must file a Notice of Motion to Reopen (Form CSD 1182), a motion explaining the reason for reopening the case, and the appropriate fee. The Order Reopening Estate (Form CSD 1490) should be filed 14 days after the Notice and Motion were filed with the Court.

18. What is a Claims Register?

A Claims Register is a running log that lists specific information of every claim filed in a particular case. Information found on a claim's register includes a Portable Document Format (PDF) image of the claim, the dollar amount of the claim, and its classification type.

Instructions for Pro Se Debtor Pleading Forms

Note: Pro Se Debtor pleading forms are available on the Court's Web site (www.casb.uscourts.gov) in both WordPerfect and Portable Document Format (PDF)-fillable format.

Instructions:

1. Select and complete only the form(s) that you seek to file.
2. Completely fill all spaces on the form.
3. Complete the caption on the first page of these forms, including the Bankruptcy/Adversary case number.
4. Schedule a hearing if one is required.

5. Sign the form and Certificate of Service.
6. File with the Clerk's Office at the U. S. Bankruptcy Court, 325 West F Street, San Diego, CA 92101.